



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/459,022	12/10/1999	MING CHENG	38-21(15084)	9594

27161 7590 07/29/2005

MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: G.P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

EXAMINER

HELMER, GEORGIA L

ART UNIT	PAPER NUMBER
----------	--------------

1638

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/459,022

Applicant(s)

CHENG ET AL.

Examiner

Georgia L. Helmer

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-9,18,19,22-25 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-9,18,19,22-25 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 100.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

S-8-07

Office Action

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 May 2005 has been entered.

Status of the Claims

1. Applicant has amended claims 1, 7-9, 18 and 22; claims 20-21 and 26 are canceled. Claims 1, 2, 7-9, 18, 19, 22-25 and 27 are pending.
2. All rejections not addressed below have been withdrawn.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Several telephonic messages have been left for Applicant Todd Rands, however he has returned not of them. Accordingly, the following rejections apply:

Claim Rejections - 35 USC § 112-second paragraph

5. Claims 1,2, 7-9, 18, 19, 22-25 and 27 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. All dependent claims are also rejected.

Claims 1 and 18 are identical except for the term "selectable" (line 8) in claim 1, and "scorable" (line 8) in claim 18. Since Applicant says that (Response, p. 7) the terms

Art Unit: 1638

“screenable” and “selectable” are being used interchangeably, claims 1 and 18 are of identical scope. One of these claims needs to be canceled. it is suggested that claim 18 be cancelled and the language “or screenable” needs to be inserted between “selectable” and “marker” in line 8 of claim 1.

In claim 22, a similar change needs to be made and for the same reason.

In claims 1 and 22, the term “or “ is improper”. The proper term is “and”.

In claim 1 and 22, line 12, “of a media” does not make sense, “of media” is suggested.

These amendments were offered telephonically to Applicant Todd Rands on 30 June 2005; however Applicant has not responded.

Remarks


6. No claim is allowed.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Georgia L. Helmer whose telephone number is 571-272-0796. The examiner can normally be reached on Monday –Thursday 10:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on 571-272-0745. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1638

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Georgia L Helmer PhD
Patent Examiner,
Art Unit 1638
July 25, 2005


7/25/05
PHUONG T. BUI
PRIMARY EXAMINER